



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2013-N-0514]

Agency Information Collection Activities; Proposed Collection; Comment Request;

Administrative Procedures for Clinical Laboratory Improvement Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency.

Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with implementation of the Clinical Laboratory Improvement Amendments of 1988 (CLIA).

DATES: Submit either electronic or written comments on the collection of information by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received by mail/hand

delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2013-N-0514 for “Agency Information Collection Activities; Proposed Collection; Comment Request; Administrative Procedures for Clinical Laboratory Improvement Amendments Categorization.” Received comments, those filed in a timely manner (see ADDRESSES), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- Confidential Submissions--To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the

prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Administrative Procedures for Clinical Laboratory Improvement Amendments of 1988

OMB Control Number 0910-0607--Revision

This information collection helps support implementation of statutory provisions applicable to laboratories that conduct testing on human specimen under CLIA. These requirements are codified in 42 U.S.C. 263a and implementing regulations are found in 42 CFR 493. Regulations in 42 CFR 493.17 set forth certain notice requirements and establish test categorization criteria with regard to laboratory tests and are implemented by FDA's Center for Devices and Radiological Health. The guidance document entitled "Administrative Procedures for CLIA Categorization" (available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/administrative-procedures-clia-categorization>) describes procedures FDA uses to assign the complexity category to a device. Typically, FDA assigns complexity categorizations to devices at the time of clearance or approval of the device. In some cases, however, a manufacturer may request CLIA categorization even if FDA is not simultaneously reviewing a 510(k) or premarket approval application. One example is when a manufacturer requests that FDA assign CLIA categorization to a previously cleared device that has changed names since the original CLIA categorization. Another example is when a device is exempt from premarket review. In such cases, the guidance recommends that manufacturers provide FDA with a copy of the package insert for the device and a cover letter indicating why the manufacturer is requesting a categorization (e.g., name change, exempt from 510(k) review). The guidance recommends that in the correspondence to FDA the manufacturer should identify the product code and classification as well as reference to the original 510(k) when this is available.

We are revising the information collection to include provisions associated with certificates of waiver. On February 26, 2020, FDA revised the guidance document entitled "Recommendations for Clinical Laboratory Improvement Amendments of 1988 (CLIA) Waiver Applications for Manufacturers of In Vitro Diagnostic Devices--Guidance for Industry and FDA Staff" (available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/recommendations-clinical-laboratory-improvement-amendments-1988-clia-waiver->

applications). This guidance describes recommendations for device manufacturers submitting to FDA an application for determination that a cleared or approved device meets this CLIA standard (CLIA waiver application). The guidance recommends that CLIA waiver applications include a description of the features of the device that make it “simple”; a report describing a hazard analysis that identifies potential sources of error, including a summary of the design and results of flex studies and conclusions drawn from the flex studies; a description of fail-safe and failure alert mechanisms and a description of the studies validating these mechanisms; a description of clinical tests that demonstrate the accuracy of the test in the hands of intended operators; and statistical analyses of clinical study results.

We estimate the burden of this collection of information as follows:

Table 1.--Estimated Annual Reporting Burden¹

Information Collection Activity	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Average Burden per Response	Total Hours	Total Operating and Maintenance Costs
Request for CLIA categorization (see 42 CFR 493.17)	80	5	400	1	400	\$2,000
CLIA Waiver Application Submissions	13	1	13	1,200	15,600	\$350,000
Total						\$352,000

¹ There are no capital costs associated with this collection of information.

Table 2.--Estimated Annual Recordkeeping Burden¹

Information Collection Activity	No. of Recordkeepers	No. of Records per Recordkeeper	Total Annual Records	Average Burden per Recordkeeping	Total Hours
CLIA Waiver Recordkeeping as discussed in FDA Guidance	13	1	13	2,800	36,400

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

We have revised the information collection to include coverage previously accounted for under OMB control number 0910-0598 and discussed in revised Agency guidance. We otherwise retain our estimates of the burden we attribute to the individual elements included in the information collection.

Dated: June 9, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

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